

17 NOVEMBER 1947

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I N D E X

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2679-A	3461		Certificate of non-availability of certain documents referred to in MUTO's testimony		332 ⁸²
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Monday, 17 November 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 With the Tribunal's permission, the accused
9 SHIRATORI will be absent from the courtroom the whole
10 of the morning session conferring with his counsel.

11 With reference to the affidavits of certain
12 witnesses in the Russian phase whose presence for cross-
13 examination has not been secured, the Tribunal, by a
14 majority vote, will take into consideration the affidavit
15 of the witness KITA, Seiichi, exhibit 835. The affidavits
16 of the following deponents will be disregarded by the
17 Tribunal: Major General AKIKUSA, Shun, exhibit 743;
18 Lieutenant General YANAGITA, Genzo, exhibit 723; General
19 USHIROKU, Jun, exhibit 703; Major General OTSUBA.,
20 Kajuma, exhibit 837; and Lieutenant General TOMINAGA.,
21 Keoji, exhibit 705.

22 I omitted to read here that the affidavit of
23 the witness KITA, Seiichi will be taken into consider-
24 ation for such probative value as it may have.

25 Mr. Tavenner.

1 A K I R O M U T O, an accused, resumed the stand
2 and testified through Japanese interpreters as
3 follows:

4 MR. TAVENNER: If the Tribunal please, I regret
5 to advise you that upon doctor's orders Mr. Lopez will
6 not continue the cross-examination of this witness. If
7 it is the Tribunal's pleasure, Mr. English will con-
8 tinue with the cross-examination.

9 ACTING PRESIDENT: Mr. Cole.

10 MR. COLI: May it please the Tribunal, I
11 sincerely regret the illness of Mr. Lopez and I don't,
12 under any circumstances, want to extract any advantage
13 from it. I mean no discourtesy to him or to the prose-
14 cution in general in making objection to the proposed
15 procedure.

16 The cross-examination of the accused has already
17 been interrupted and further or continuation of that
18 interruption will certainly harm no one. The Tribunal
19 has already ruled very definitely in regard to cross-
20 examination of any witness, let alone an accused, by
21 more than one prosecutor. The latest instance of
22 which I am aware is that which arose in the case of
23 the accused ITAGAKI at which time the Tribunal refused
24 a similar request on record page 30,485. Briefly, I
25 feel that it is a distinct disadvantage not alone to

1 any ordinary witness but to an accused to have a sub-
2 stitution in the midst of cross-examination, and I
3 object to that procedure.

4 ACTING PRESIDENT: Mr. Tavenner.

5 MR. TAVENNER: If the Tribunal please, it is
6 hardly necessary to remind you that the ruling of the
7 Tribunal is that two attorneys shall not engage in cross-
8 examination without permission of the Tribunal. We
9 think the disadvantage in making a change during the
10 course of cross-examination is with the prosecution
11 rather than with the defense. We prefer that there be
12 no delay in disposing of this phase of the case. And
13 I am just reminded of the fact that the Court ruled on
14 that matter Friday.

15 MR. COLE: One more brief observation, if the
16 Tribunal please, and that is that even if we proceed as
17 proposed the case for the accused MUTO cannot be con-
18 cluded presently. The question regarding the proposed
19 witness Colonel ISHII is still open depending upon the
20 condition of his health.

21 MR. TAVENNER: Since the matter of the witness
22 ISHII has been raised, I would like to make a statement
23 in regard to it.

24 ACTING PRESIDENT: Very well.

25 MR. TAVENNER: With regard to defense document

1 2786, the affidavit of ISHII whose testimony was to
2 be taken on commission, in view of the present cir-
3 cumstances the prosecution is willing to and does
4 withdraw its objection to the reading in evidence of
5 the affidavit at this time, reserving, however, with
6 the Tribunal's permission, the right at a later date
7 to submit interrogatories, conduct cross-examination
8 on commission, or such other action as the prosecution
9 is advised may be proper.

1 ACTING PRESIDENT: What has the defense to
2 say as to that?

3 MR. COLE: May I beg the Court's indulgence
4 for a moment, please?

5 May the Tribunal please, I regret that I
6 was discussing with counsel another matter at the
7 time of Mr. Tavenner's statement.

8 I believe it was my own suggestion, sir,
9 that the matter in regard to Colonel ISHII be handled
10 by interrogatories. I have no objection to the sug-
11 gestion of Mr. Tavenner if in addition to that we can
12 be permitted further direct examination of Colonel
13 ISHII beyond the scope of this present affidavit.

14 ACTING PRESIDENT: I assume you mean by that
15 further evidence in the nature of redirect examination
16 that might be brought out by cross-examination if he were
17 a witness here in court.

18 MR. COLE: That is included, sir, but I had
19 in mind particularly matters which developed in the
20 examination of the witness YAMAMOTO last week.

21 Our only consideration in discussing Colonel
22 ISHII is the matter of his health, that is the only
23 consideration.
24

25 ACTING PRESIDENT: If that is your desire,
should you not put that in by way of further affidavit

1 so that the prosecution will have a chance to put in
2 cross-interrogatories on that if they desire?

3 MR. COLE: We are willing to do that, sir.

4 ACTING PRESIDENT: That will be satisfactory.

5 With reference to Mr. Lopez, the Tribunal is
6 sorry to hear of his continued illness. With reference
7 to the objection of the substitution of Mr. English
8 as cross-examiner, the Tribunal will remember that
9 last Friday -- or you will remember that last Friday
10 the Tribunal expressed its desire that if Mr. Lopez
11 was not able to continue his cross-examination today
12 that some other member of the prosecution take it up.
13 This is a special circumstance in which a variation
14 from our rule may well be taken.

15 The objection is overruled, and Mr. English
16 may continue with the cross-examination.

17 MR. ENGLISH: May it please the Tribunal--

18 ACTING PRESIDENT: Mr. English.

19 CROSS-EXAMINATION (Continued)

20 BY MR. ENGLISH:

21 Q General, did you and War Minister ANAMI, Vice
22 War Minister ANAMI visit Chief Cabinet Secretary
23 ISHIWATA on or about 11 July 1940?

24 A No. I visited Cabinet Secretary ISHIWATA alone.

25 Q Did not you and ANAMI state at that time that

1 In order to realize KONOYE's new political order you
2 would like to have the cabinet resign?

3 A No, that is wrong. As I just told you,
4 Vice Minister ANAMI did not go.

5 Q At that conference didn't ISHIWATA disapprove
6 of your ideas, and did he not say, "Then there is
7 nothing to be done but to force the resignation of
8 the War Minister?"

9 A No, I didn't.

10 Q It is a fact--

11 THE MONITOR: Just a moment, please.

12 THE INTERPRETER: He didn't.

13 Q I meant to say did you not say, "There is
14 nothing to be done but to force the resignation of
15 the War Minister?"

16 A No, I didn't either.

17 Q It is a fact, General, is it not, that three
18 days later, on the 14th of July 1940 that the War
19 Minister handed a written memorandum to Minister --
20 Prime Minister YONAI?

21 A I did hear that the War Minister had handed
22 a letter to the Prime Minister, but I do not know
23 myself whether that was a fact or not.

24 ACTING PRESIDENT: May I ask what that date
25 was?

MR. ENGLISH: 14 July 1940.

1 Q General, did not this memorandum state that
2 the strengthening of the domestic organization and
3 the reformation of the foreign policy had become the
4 most pressing problems facing the cabinet?
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6 A As I have been telling you, I know nothing
7 of its contents.
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1 Q And, General, did not War Minister HATA
2 further state in this memorandum that the Government
3 was doing nothing and losing an opportunity that
4 would never come again?

5 A As I have been telling you repeatedly, I
6 do not know anything about its contents.

7 Q Did not HATA, at that time, suggest the
8 resignation of the Cabinet?

9 A As I have been telling you, I did hear at
10 the time that General HATA had sent -- had presented
11 the Prime Minister with a letter, but I also told you
12 that I did not know about its contents.

13 MR. ENGLISH: I refer the Tribunal, in
14 connection with those questions, to exhibit 3199-A,
15 record page 28,941.

16 ACTING PRESIDENT: I have a question from a
17 Member of the Tribunal.

18 For what purpose did you go to see ISHIWATA
19 on the 11th of July, 1940?

20 THE WITNESS: As is stated in my affidavit,
21 I was given the duty of being one of those to welcome
22 the Emperor of Manchukuo and I had gone to the Osaka-
23 Kyoto area in the beginning of July. When I returned
24 to Tokyo on the 9th or 10th of July, I found that
25 the War Minister had received a very strong document

1 from the General Staff embodying its strong opinions.
2 This also is included in my affidavit.

3 Because of this note, the War Minister's
4 position -- War Minister HATA's position had become
5 very difficult. The reason was that when War Minister
6 HATA assumed his portfolio he received a very strong
7 demand from the Emperor that he cooperate with
8 Prime Minister YONAI. Therefore, War Minister HATA,
9 who since the establishment of the YONAI Cabinet had
10 fully cooperated with it, was suddenly faced by these
11 demands of the General Staff which even might lead
12 to a demand for the general resignation of the Cabinet.

13 When I called on War Minister HATA on the
14 10th or 11th of July, after returning from my trip,
15 I heard from him that he and YONAI had had a
16 conversation. HATA told YONAI on that occasion that
17 Prince KONOYE was establishing a new party and was
18 about to set out on the formation of a new political
19 structure. Public opinion supported him overwhelmingly.

20 And in conclusion HATA advised the Premier
21 to call on KONOYE and find out just what thoughts
22 KONOYE had. At that time YONAI replied -- HATA told
23 him that YONAI replied that he was a Navy man, that
24 he had nothing to do with political parties and that
25 if Prince KONOYE was really going to set about

1 creating a really splendid new party, he would
2 certainly be happy to relinquish his post. He had
3 no political desires.

4 General HATA was very anxious to hear the
5 results of Premier YONAI's conversations with KONOYE,
6 but no word came from the Premier on that matter. That
7 is why I called on Chief Secretary ISHIWATA; first,
8 to find out what the results of the Premier's
9 conversations with KONOYE -- first, to find out the
10 Premier's state of mind, and, second, to explain
11 General HATA's difficult position.

12 ACTING PRESIDENT: Go ahead, Mr. English.

13 BY MR. ENGLISH (Continued):

14 Q General, it is a fact, isn't it, that HATA
15 resigned on 16 July, 1940?

16 A Yes.

17 Q It is also a fact that when asked by Premier
18 YONAI to recommend a successor, HATA reported to the
19 Premier on the same day, that is, 16 July, 1940, that
20 the Three Chiefs Conference had no one to recommend
21 as his successor for War Minister?

22 A What you have just said is at variance with
23 what I know of the facts.

24 Q And did not the failure of the military to
25 recommend a successor for War Minister HATA force the

resignation of the YONAI Cabinet?

1 A I heard that on the 16th, when Premier YONAI
2 had a conference with General HATA, the two failed
3 to come to an agreement of views, and, thereupon,
4 Premier YONAI said "I must ask you to resign" -- told
5 HATA: "I must ask you to resign." Furthermore, Premier
6 YONAI is reported to have told War Minister HATA on
7 that occasion: "I don't suppose that we will be
8 able to find a successor for your post." General
9 HATA replied: "Well, I can't say anything here by
10 myself. I will have to go back to the War Ministry
11 and see the results of the Three Chiefs Conference
12 and then return to the War Ministry."

13 Then, the Three Chiefs -- the Three Army
14 Chiefs -- met with each other, and although I do not
15 know the contents of their conference, they finally
16 came to the conclusion that there was no one who
17 wished to accept a post as War Minister in succession
18 to General HATA. Thereupon, General HATA returned
19 to the Cabinet and reported that decision to the
20 Prime Minister.

21 Those are the facts which I know about the
22 circumstances of the fall of the YONAI Cabinet.

23 Q Then, it is true, General, that immediately
24 after the fall of the YONAI Cabinet, the Three Chiefs
25

Conference recommended TOJO as the next War Minister?

1 A I know nothing about the contents of the
2 Three Chiefs Conference. I believe the things
3 happened -- I believe that the testimony of Lieutenant
4 General NODA, who was then Chief of the Personnel
5 Bureau of the War Ministry, is true on this point.
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1 Q General, in paragraph 20 of your affidavit,
2 you gave as the cause of the fall of the YONAI
3 Cabinet the fact that the General Staff was so
4 anxious to have the China Affair settled as soon as
5 possible that it demanded that Germany mediate be-
6 tween Japan and China and that the cabinet solidify
7 the internal affairs, and because the YONAI Cabinet
8 did not show earnest response to these demands, the
9 Army urged HATA to resign.

10 Isn't it true, General, that at Sugamo
11 Prison, during an interrogation on 14 April 1946,
12 you gave an entirely different version of the fall
13 of the YONAI Cabinet, when you gave the answer to this
14 question:

15 "Q Why did the YONAI Cabinet fall?

16 "A As I remember, it was sometime during
17 the summer of 1940, at a time when the Emperor of
18 Manchuria was on a visit to Japan, the Foreign Office
19 came out with a statement listing the three spheres
20 of influence in the world, dividing them into the
21 Far East, dominated by Japan, the Americas, and
22 Europe. The Army opposed this announcement, and,
23 to complicate matters, the Foreign Office stated
24 that the Army had opposed it, so that I recall that,
25 on my return from Ise where I had been with the

1 Manchukuoan Emperor, the War Minister was very dis-
2 turbed about how the Army felt about it and the way
3 some of the younger officers in the Army were react-
4 ing to the announcement. Ultimately, he resigned,
5 and that brought about the downfall of the YONAI
6 Cabinet."?

7 A In my affidavit, I have stated the general
8 reasons, and in my interrogation I stated the direct
9 reasons why the General Staff got angry.

10 Q Isn't it a fact that immediately after he
11 was directed by the Emperor to form a new cabinet,
12 KONOE, on 20 July 1940, issued the following state-
13 ment for the press, which statement, of course, was
14 publicized generally throughout Japan:

15 "I cannot disclose the nature of my dis-
16 cussions today with Lieutenant-General TOJO, Vice-
17 Admiral YOSHIDA, and Mr. MATSUOKA, but I can state
18 clearly that a complete agreement was reached con-
19 cerning the fundamental foreign policies of the
20 nation. The contents of this discussion will be
21 revealed formally after the first session of the
22 cabinet upon its completion. The discussions
23 touched on the issues concerning the disposal of
24 the China Incident, strengthening the Germany-
25 Italy-Japan Axis, and the relations with the

1 United States, Great Britain, and the Soviet Union,
2 as well as harmonization and co-operation between
3 the military high command and the civil admini-
4 stration." ?

5 A There may have been such an announcement.
6 I do not recall it.

7 Q Before he assumed the premiership, did
8 not KONOYE, on 23 July 1940, in a nation-wide
9 radio broadcast, declare that the new foreign
10 policy would be one enabling Japan to take the
11 initiative in building up a new world order as the
12 old order had already ended in Europe?

13 A I don't recall the contents of the radio
14 speech made by Prince KONOYE.

15 Q Did not the KONOYE Cabinet, shortly after
16 its inauguration and after agreement with the Army,
17 lay down, on 26 July 1940, the outline of Japan's
18 basic national policy aimed at the construction of
19 the new order of Greater East Asia, for the attain-
20 ment of which constructive and elastic measures will
21 be adopted in order to advance the national fortunes
22 of the Empire?

23 A I recall that this outline of the basic
24 policy -- of the basic national policy was not de-
25 cided on by the Army alone but was decided on at a

1 cabinet meeting at which all members of the cabinet
2 were present.

3 MR. ENGLISH: I direct the Court's atten-
4 tion to the fact that this question was based upon
5 exhibit 541, record 6,271.

6 Q It is true, General, isn't it, that the
7 draft of this basic national policy, exhibit 541,
8 was prepared by the Military Affairs Section of
9 the Military Affairs Bureau and given by you to War
10 Minister TOJO for him to take up with Premier
11 KONOYE, and that this draft was approved by the
12 cabinet?

13 A No, that is not so.

14 Q General, did you give these answers to the
15 following questions during an interrogation at
16 Sugamo Prison on 16 April 1946:

17 "Q In 1940, did you not formulate a new
18 order for the Japanese Empire, which was presented
19 by TOJO to the cabinet and approved?

20 "A At the time of the KONOYE Cabinet, when
21 Prince KONOYE called in TOJO to be his next War
22 Minister, the plan that TOJO took with him to show
23 to the Prime Minister was one that had been made up
24 in the Military Affairs Section. This is the
25 accepted policy and one which is always followed

1 when a new War Minister takes over.

2 "Q And that plan was formulated while you
3 were Chief of the Military Affairs Bureau?

4 "A Yes."?

5 A That interrogation -- that draft of which
6 you were speaking there is something entirely
7 different from the basic national policy which was
8 presented to this Tribunal as an exhibit. War
9 Minister General TOJO's draft concerned, first, the
10 establishment of a foreign policy with the solution
11 of the China Incident as its basic point and also
12 the establishment of the strengthening of the
13 internal structure of Japan for the sake of
14 establishing a high state of national defense.
15 Whenever a new War Minister is appointed, he should
16 know and be able to present the Army's point of
17 view, and he should have certain basic ideas of
18 the Army as a whole, and it is on that point that
19 General TOJO took his proposals, and I never said
20 during my interrogation that this was a policy
21 which every War Minister had taken to every new
22 cabinet. The basic national policy, which has been
23 presented to this Court as an exhibit, was based
24 upon the drafts which each new War Minister presented
25 to the cabinet on his assumption of his post and was

1 not drawn up by General TOJO alone.

2 THE MONITOR: Japanese court reporter.

3 (Whereupon, the Japanese court
4 reporter read from his notes.)

5 THE INTERPRETER: "The basic national
6 policy was formed on the drafts submitted by each
7 new Cabinet Minister and was not formulated by
8 General TOJO alone."
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1 Q But, General, the basic aim of the draft
2 prepared by the Military Section of the Military
3 Affairs Bureau was aimed at the creation of a new
4 order externally and internally, that is, in foreign
5 affairs, foreign relations, and internally --
6 nationally?

7 A It was directed to that also, and you will
8 see it included in the basic national policy.

9 Q It is true, General, isn't it, that the
10 cabinet decision, exhibit 541, deciding the outline
11 of Japan's basic national policy was discussed at the
12 Liaison Conference of 27 July 1940, at which you were
13 present, and after the meeting it was officially
14 announced that a complete agreement was reached be-
15 tween the Imperial Headquarters and the government
16 on the basic policies approved at the cabinet meet-
17 ing?

18 A I don't recall that.

19 Q The Yomiuri Shimbun is a newspaper of general
20 circulation in Japan with a circulation of approximate-
21 ly a million and a half, is that not true, General?

22 A I don't know the circulation figures, but I
23 do know that the Yomiuri is very widely read.

24 Q It is a Japanese-language newspaper, is it
25

1 not?

2 A Yes.

3 Q I refer again to the cabinet decision,
4 exhibit 541. To carry out the objectives of Sec-
5 tion 3 of the Outline of Japan's Basic National
6 Policy as decided by the cabinet on 26 July 1940,
7 and particularly dealing with the renovation of the
8 internal structure, you were one of six appointed
9 as the permanent secretariat, which, as directors of
10 the new Structure Preparatory Committee, was to be
11 the driving force in drawing up the plans for the
12 organizational draft of a new Structure Preparatory
13 Committee; that is true, is it not?

14 ACTING PRESIDENT: Can you understand that
15 question, Witness?

16 THE WITNESS: Not too well, your Honor.

17 ACTING PRESIDENT: Can't you simplify that
18 somewhat, Mr. English?

19 MR. ENGLISH: I will, your Honor.

20 ACTING PRESIDENT: It is not only involved,
21 but it takes a lot of extra time for the translators.

22 BY MR. ENGLISH:

23 Q General, you were appointed as one of six
24 members of the permanent secretariat of the new Struc-
25 ture Preparatory Committee, is that not true?

1 A I forget whether there were six or how many
2 there were, but I was appointed one of the members of
3 the secretariat.

4 Q The new Structure Preparatory Committee was
5 organized to carry out the basic aims of the cabinet
6 decision of 26 July 1940, isn't that true?

7 A One of its objectives was to carry out the
8 basic aims of the Outline of Basic National Policy,
9 but it did have another purpose. Prince KONOYE had
10 from before held the idea of strengthening the inter-
11 nal structure of Japan, and this was the principal
12 purpose of this Preparatory Committee.

13 ACTING PRESIDENT: We will recess for fif-
14 teen minutes.

15 (Whereupon, at 1045, a recess
16 was taken until 1100, after which the
17 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. English.

4 BY MR. ENGLISH (Continued):

5 Q General, prior to the Cabinet decision we've
6 been talking about, exhibit 541, on 11 July, 1940 you
7 had a conversation, did you not, with Chief Secretary
8 ISHIWATA at the Premier's official residence during
9 which you exchanged views with him favorable to the
10 creation of this new political structure?

11 A Yes. I spoke of my agreement and approval
12 of the direction towards which Prime Minister KONOYE's
13 intentions were directed.

14 Q Referring again to the same Cabinet deci-
15 sion, isn't it a fact that the Tri-Partite Pact,
16 consummated on 27 September, 1940, in order to insure
17 the establishment of a new order in Europe by Germany
18 and Italy and a new order in East Asia by Japan,
19 that those two events happened pursuant to the Cab-
20 inet decision outlining the basic national policy?

21 A That is not so. There is nothing referring
22 to a new order in Europe in the outline of the basic
23 national policy. What I recall is this: Prime
24 Minister MATSUOKA was very proud of the manner in
25 which the preamble of the Tri-Partite Alliance Pact

1 was drawn up inasmuch as it expressed his views with
2 regard to the new order, that is to say, to enable
3 each and every nation and people to have their proper
4 place in the world. He was proud of the fact that
5 for the first time a purely Japanese ideal was
6 incorporated into an international treaty.

7 Q You were present, were you not, at the
8 first meeting of the Permanent Secretariat held on
9 26 August, 1940 at the Prime Minister's official
10 residence to put the final touches on KONOYE's pro-
11 clamation officially announcing the establishment of
12 the new political structure?

13 A The question was not quite clear to me.
14 But Prime Minister KONOYE was not present at the
15 meeting of the Secretariat. He was present at the
16 first meeting of a committee of forty persons which
17 he had nominated for the purpose.

18 Q Was that committee of forty members the
19 same as the Permanent Secretariat?

20 A The Secretariat was constituted by secretar-
21 ies of a lower level, whereas the committee of forty
22 or thereabouts was composed of representatives of
23 private civilian circles and the government of the
24 ministerial class or level.

25 Q Were you a member of this committee of forty?

1 A No, I was not.

2 Q But you were a member of the Permanent
3 Secretariat, were you not?

4 A Yes.

5 Q What was the purpose of the Secretariat?
6 what function did it perform?

7 A Before assuming the post of Prime Minister,
8 Prince KONOYI was the organizer and leader of an
9 organization called the Showa Kenkyukai or Showa
10 Research Association. This organ, namely the
11 Showa Research Association, prepared a sort of an
12 outline plan of a new national organization or
13 structure, and the Secretariat undertook the study
14 of the plan as prepared by this association.

15 Q Wasn't it the function of the Permanent
16 Secretariat to prepare the way for the meeting of
17 the committee of forty?

18 A The function of the members of the Secretar-
19 iat was to study draft plans. It was not its duty
20 nor function to nominate or to assemble members of
21 the committee.

22 Q To study draft plans of what, General?

23 A Well, such matters -- such basic plans as
24 may relate to reorganization of the national structure,
25 but it is difficult for me to speak of the matter

1 A No, I was not.

2 Q But you were a member of the Permanent
3 Secretariat, were you not?

4 A Yes.

5 Q What was the purpose of the Secretariat?
6 What function did it perform?

7 A Before assuming the post of Prime Minister,
8 Prince KONOYI was the organizer and leader of an
9 organization called the Showa Kenkyukai or Showa
10 Research Association. This organ, namely the
11 Showa Research Association, prepared a sort of an
12 outline plan of a new national organization or
13 structure, and the Secretariat undertook the study
14 of the plan as prepared by this association.

15 Q Wasn't it the function of the Permanent
16 Secretariat to prepare the way for the meeting of
17 the committee of forty?

18 A The function of the members of the Secretar-
19 iat was to study draft plans. It was not its duty
20 nor function to nominate or to assemble members of
21 the committee.
22

23 Q To study draft plans of what, General?

24 A Well, such matters -- such basic plans as
25 may relate to reorganization of the national structure,
but it is difficult for me to speak of the matter

1 in a word.

2 Q Did it make plans or draft plans for the
3 organization of this new structure political committee?

4 A In the final analysis the secretaries could
5 not do that and, therefore, various matters, questions,
6 were submitted by Prime Minister KONOYE to the com-
7 mittee, that is, the standing committee, and the
8 opinions which were expressed at the committee meeting
9 were used as bases for drawing up other plans.

10 Q Did you attend the meeting of the Permanent
11 Secretariat on 26 August 1940 at the residence of the
12 Prime Minister?

13 A As I think I have said before, I do not
14 know whether a meeting of the Secretariat was held
15 on August 26. If Prime Minister KONOYE is said to have
16 attended a meeting, it was not a meeting of the Secre-
17 tariat but a meeting of the committee.

18 Q Do you recall a meeting on or about 26
19 August 1940 attended by TONITA, OBATA, ABE, GOTO,
20 INADA, MORIYAMA, OKUMURA, Lieutenant Colonel MAKI
21 and Captain or Commander TAKAGI?

22 A I do not recall that.

23 Q Do you recall this meeting was called for the
24 purpose of putting the final touches on KONOYE's
25 proclamation officially announcing the establishment

1 of the new political structure committee?

2 A I have a recollection of having discussed
3 a draft of the KONOYE declaration which was prepared
4 somewhere.

5 Q It is a fact, General, is it not, that in
6 the original draft of this proclamation Premier
7 KONOYE wrote strongly that the new order meant
8 neither Nazism nor fascism, but when it was sent
9 to you you deleted that statement and returned the
10 draft to the Cabinet?

11 A The draft which Prime Minister KONOYE first
12 sent to the Ministry of War through the War Minister
13 was a very long and loose statement. At that time
14 I did not know that this draft had been prepared at
15 the direction of Prince KONOYE and, thinking it to be
16 too long, I expressed my opinions with regard to
17 cutting it into about half.

18 THE INTERPRETER: Slight correction: At that
19 time as I did not know that this draft had been pre-
20 pared by KONOYE, Prince KONOYE, I expressed opinions
21 to have the statement cut to about half the length.

22 A (Continuing) It may be that the KONOYE
23 statement with regard to the fact that the new order
24 did not mean fascism or Nazism was in the omitted
25 portion. However, later on I abandoned my views after

1 learning that the draft was Prime Minister KONOYE's
2 draft.

3 Q General, did you or did you not delete from
4 the KONOYE draft these words, "that the new order
5 meant neither Nazism nor fascism"?
6

7 A I do not remember.

8 Q It is true, isn't it, General, that a
9 Captain TAKAGI of the Naval Affairs Bureau was one
10 of the assistant secretaries of the Preparatory
11 Committee and that he was present at the meeting of
12 the committee on 26 August 1940 which discussed the
13 draft of KONOYE's proclamation?

14 A There was no captain of the Navy by the
15 name of TAKAGI among the secretaries.

16 Q Was there a Captain TAKAGI of the Bureau
17 of Naval Affairs, Navy Ministry, one of the assistant
18 secretaries?

19 A There may have been a Captain TAKAGI as an
20 assistant in the Naval Affairs Bureau of the Navy
21 Ministry but I don't know.
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Q You do not recall, then, meeting with him on 26 August 1940 to discuss KONOYE's draft proclamation?

A As I have said before, I do recall having discussed a draft of the KONOYE proclamation. However, I do not recall whether there was such a person representing the Navy.

Q Do you recall telling Captain TAKAGI late in August, 1940, that the Army was disappointed with KONOYE and his proclamation and the new political structure?

A I do not. Nor was the Navy disappointed -- nor was there anything like a disappointment in the Army.

Q You also told Captain TAKAGI that the Army was exerting all its efforts to induce the dissolution of all political parties to form one pro-Army party but that its plan was frustrated when KONOYE's proclamation was published.

A That is a very great misapprehension. The facts are quite different.

Q You further told Captain TAKAGI during this conversation late in August 1940 that the Army had planned to use Prince KONOYE as a robot. That is true, is it not, General?

A Absolutely not.

Q It is a fact, isn't it, that on 15 August 1940

1 the Menseito, the largest political party in Japan, dis-
2 banded and that marked the end of the party system in
3 Japan?

4 A I do not remember the date, but the Menseito
5 also disbanded. As I have said before, perhaps today --
6 perhaps last Friday, the Army was very much disposed to,
7 approved of and supported KONOYE's plans for the establish-
8 ment of a new party for the purpose of carrying on
9 effective politics in Japan. The political parties
10 were disbanded but Prime Minister KONOYE abandoned the
11 idea of creating a new political party. In connection
12 therewith I might have said something but I do not
13 remember.

14 Q It is also a fact, isn't it, that after the
15 signing of the Tripartite Pact the new political
16 structure became officially the Imperial Rule Assistance
17 Association?

18 A Yes.

19 MR. ENGLISH: In this connection, in con-
20 nection with the last question, I refer the Tribunal
21 to the following pages of the record: 1117, 1639 to
22 1634 -- the pages following 1639, page 6706 to 6714.

23 Q It is a fact, General, isn't it, that you stated
24 in the early part of February 1941 as a councillor of
25 the Imperial Rule Assistance Association that the "Army

1 and the Navy will fully cooperate with the association
2 in the future just as they have cooperated to the fullest
3 extent in the development of the association in the
4 past"?

5 A Yes. At such meetings it was customary for
6 the Army and Navy to rotate, that is, representatives
7 of the Army and Navy rotated in speaking before the
8 meeting of the I.R.A.A. and on this particular occasion
9 it was my turn and I represented both the Army and the
10 Navy.

11 Q Regarding your explanation of exhibit 2243,
12 that is the speech in the Committee of Accounts of the
13 Diet on March 20, 1940 and referred to in paragraph 13
14 of your affidavit, isn't it true that in responsible
15 circles in Japan the speech was interpreted as a
16 ringing advocacy for the dissolution of political
17 parties?

18 MR. COLE: Sir, I object to that question as
19 being entirely immaterial.

20 ACTING PRESIDENT: Objection overruled.

21 A No, that isn't so. Well, the press treated
22 my statements in the manner which the prosecutor has
23 suggested and people who did not know the real situ-
24 ation seemed to have been very much surprised, but
25 those who have referred to the stenographic transcript

1 of proceedings of the Diet well understood the contents
2 of my statement.

3 Q General, three days after the speech did not
4 Foreign Minister ARITA appear before the same committee
5 and was he not asked by Member INADA if he, the Foreign
6 Minister, agreed with the opinion of the Chief of the
7 Military Affairs Bureau MUTO who said that political
8 parties must be dissolved and did not ARITA evade the
9 question?

10 I do not think the Member of the House of
11 Representatives INADA was at the meeting of the
12 Committee of Accounts when I spoke before it. Neither
13 was Foreign Minister ARITA. And so neither of them,
14 that is ARITA or INADA, knew what I spoke about. What
15 I said in that connection is exactly as I have testified
16 in my affidavit. There is nothing else to add to that
17 and it has no other meaning.

18 Q What I asked you, General, was this, whether
19 or not ARITA evaded answering that question.

20 A I do not know.

21 Q In this same speech you cited General TERAUCHI's
22 views on totalitarianism. Is he not the same General
23 TERAUCHI who was sent in 1939 to Berlin to attend as
24 the Japanese official representative to the Nazi Party
25 conference?

1 A Yes, but War Minister TERAUCHI did not simply
2 talk about totalitarianism itself.

3 Q The interpellations which governed that Diet
4 speech were directed not to you but to War Minister
5 HATA, were they not?

6 A It appears that the member of the House of
7 Representatives was desirous of calling War Minister
8 HATA to the committee meeting for the purpose of inter-
9 pellation.

10 Q But you, General, and not HATA replied to the
11 interpellations. That is true, isn't it?

12 A Yes.

13 MR. ENGLISH: If it please the Tribunal,
14 that concludes the cross-examination of the accused
15 MUTO.

1 MR. COLE: May it please the Tribunal, we
2 have a few questions on redirect.

3 ACTING PRESIDENT: Mr. Cole.

4 REDIRECT EXAMINATION

5 BY MR. COLE:

6 Q General MUTO, last Friday some emphasis was
7 put upon the fact that you, even though a Major General,
8 and later Lieutenant General, served at the Imperial
9 Conference only to do secretarial detail work. Will
10 you describe very briefly the arrangement of tables
11 and chairs, and your position in the Imperial Confer-
12 ence room?

13 A Imperial Conferences were held in a large
14 room in the Imperial Palace. The dais on which the
15 Emperor sat was a little above the level of the floor
16 of the conference room. Before this dais on which the
17 Emperor sat was a long rectangle table, and attendants
18 at the Imperial Conference sat facing each other along
19 the side of the table. In a corner of this large room
20 there is another small table. Here the secretaries
21 sat.
22

23 It was customary at Imperial Conferences for
24 the Prime Minister to serve as the presiding officer.
25 Those speaking at the conference stood up in front of
his chair and spoke, after bowing to His Majesty.

1 During the conference no one enters or leaves the
2 conference room. Conferences were held in a very
3 solemn manner.

4 Q Now, General MUTO, more briefly will you
5 explain the arrangement and your position in Liaison
6 Conferences?

7 A Liaison Conferences were held in a smaller
8 conference room, and around the conference room were
9 armchairs. Somewhat in the center along the farther
10 end of the room sat the Prime Minister, and a circle
11 was formed around him. And the three secretaries sat
12 together near the entrance to the conference room.

13 Liaison Conferences were held between the
14 representatives of the Government and of the High Com-
15 mand for the purpose of bringing about a meeting of
16 minds between the two on various issues, and, there-
17 fore, there was no presiding officer, and every member
18 spoke freely. And, therefore, at times there may be
19 occasions when two men would start talking at the same
20 time, or for one member to be whispering to another
21 while another one was speaking. Secretaries were con-
22 stantly leaving and entering the room on such business
23 as making telephone calls, to call in explainers, or
24 to bring in documents.
25

Q In referring to the secretaries in your last

1 During the conference no one enters or leaves the
2 conference room. Conferences were held in a very
3 solemn manner.

4 Q Now, General MUTO, more briefly will you
5 explain the arrangement and your position in Liaison
6 Conferences?

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8 conference room, and around the conference room were
9 armchairs. Somewhat in the center along the farther
10 end of the room sat the Prime Minister, and a circle
11 was formed around him. And the three secretaries sat
12 together near the entrance to the conference room.

13 Liaison Conferences were held between the
14 representatives of the Government and of the High Com-
15 mand for the purpose of bringing about a meeting of
16 minds between the two on various issues, and, there-
17 fore, there was no presiding officer, and every member
18 spoke freely. And, therefore, at times there may be
19 occasions when two men would start talking at the same
20 time, or for one member to be whispering to another
21 while another one was speaking. Secretaries were con-
22 stantly leaving and entering the room on such business
23 as making telephone calls, to call in explainers, or
24 to bring in documents.
25

Q In referring to the secretaries in your last

1 answer you included yourself, General MUTO?

2 A Yes.

3 Q Exhibit 3456 which was admitted last Friday
4 refers to a meeting at the Foreign Minister's official
5 residence on 6 September 1941. Will you state briefly
6 how you happened to attend that meeting?

7 A As I have written in my affidavit, it was
8 one of my duties to hold conferences with the Director
9 of the American Bureau of the Foreign Office at the
10 orders of the War Minister. Slight correction: As
11 I have stated in my affidavit, I was ordered by the
12 War Minister to confer with the Director of the American
13 Bureau of the Foreign Ministry. When the Foreign Of-
14 fice makes a study of certain matters, they would call
15 me by telephone to obtain the army's views on various
16 questions, and it is in response to these telephone
17 invitations that I attend them. The document which
18 was shown to me the other day was a document drawn
19 up by the Foreign Office.
20

21 Q Did you have anything to do with drawing up
22 that document?

23 A Well, I was one of the parties consulted in
24 the course of the discussions at the conference, and
25 the document was drawn up as a result of these consul-
tations.

1 ACTING PRESIDENT: We will adjourn until 1:30.

2 (Whereupon, at 1200, a recess
3 was taken.)

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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2
3 ~~MARSHAL OF THE COURT:~~ The International
4 Military Tribunal for the Far East is now resumed.
5 A K I R A M U T O, an accused, resumed the stand
6 and testified through Japanese interpreters as
7 follows:
8

REDIRECT EXAMINATION

9
10 BY MR. COLE:

11 Q General MUTO, in your last answer on cross-
12 examination you answered that you attended a com-
13 mittee meeting of the Diet in place of General HATA.
14 Why did you attend in his place?

15 As I have stated in my affidavit, General
16 HATA happened to be in attendance at a more important
17 committee meeting of another committee. And when I
18 spoke of this fact to this particular Committee of
19 Accounts and asked whether it would be satisfactory to
20 the Committee of Accounts if the Director of the Mili-
21 tary Affairs Bureau attended in the place of the War
22 Minister the committee said that that would be satis-
23 factory, and therefore I attended.

24 Q During your tenure as Chief of the Military
25 Affairs Bureau were you aware at any time of insistence

1 on the part of the army that there be a single politi-
2 cal party?

3 A No, there was nothing of the kind. The army
4 approved of Prince KONOYE's new party movement, but
5 the army did not consider anything such as a single
6 party system. Rather, on the contrary, the army be-
7 lieved that a single party system would be tantamount
8 to no political parties whatsoever, and that anything
9 in the nature of a single party would eventually col-
10 lapse by internal corruption.

11 Q Do you know whether the army ever insisted
12 upon a complete disbanding of all political parties?

13 A No, it did not. The movement for the dissolu-
14 tion of political parties took place in pursuance of a
15 desire within the political parties themselves for the
16 creation of a new political party, and the truth of
17 the situation with regard to this matter was as testi-
18 fied to by a witness who appeared in this Tribunal
19 namely, Mr. OKADA, one of the leaders of the former
20 Seiyukai.

21 THE MONITOR: Slight addition: Prince KONOYE's
22 new political party movement.

23 MR. COLE: That concludes our redirect exami-
24 nation, sir.

25 ACTING PRESIDENT: I have a question by a

Member of the Tribunal.

Is the General YAMASHITA you mentioned in your affidavit the same YAMASHITA who was prosecuted and was sentenced to capital punishment in the Philippines?

THE WITNESS: Yes.

ACTING PRESIDENT: The prisoner may resume his place in the dock.

(Whereupon, the witness was excused.)

MR. COLE: At this point, may it please the Tribunal, I should like to make a brief statement on a further development regarding Colonel ISHII.

ACTING PRESIDENT: All right.

MR. COLE: Since this matter came up last week we have been advised that Colonel ISHII has postponed a necessary operation for the collapse of a lung until such time as the cross-examination can be had.

That brings an even more urgent aspect to his particular case. On behalf of the accused MUTO we would like to withhold the reading of Colonel ISHII's main affidavit until such time as we can obtain his additional testimony and the cross-examination or interrogatories of the prosecution. I am prepared to read his affidavit at this point, but we would

1 prefer to have all his testimony put in at one time.

2 ACTING PRESIDENT: I have been assured by
3 Mr. Justice Northcroft, who has been appointed
4 Commissioner to take ISHII's testimony, that the
5 commission was set as soon as the arrangements can
6 be made by the Secretariat.

1 MR. TAVENNER: If the Tribunal please.

2 ACTING PRESIDENT: Mr. Tavenner.

3 MR. TAVENNER: If I now understand the situation
4 correctly, counsel proposes to tender an additional
5 affidavit. With that changed situation, I feel that I
6 should withdraw the suggestions that I made this morning,
7 and that the prosecution should not commit itself in
8 any manner until that affidavit is presented for us to
9 see.

10 If an additional affidavit is presented, the
11 rules of the Tribunal should be complied with and we
12 should have that information before going all that dis-
13 tance if testimony is taken on commission. So I now
14 suggest that the affidavit, if one is to be presented,
15 be prepared and served in the usual way before we make
16 any objections or raise any further question regarding
17 the matter.

18
19 ACTING PRESENT: As I understood the situation
20 this morning, Colonel ISHII was not in condition to
21 be subjected to cross-examination. If he is to be
22 examined by commission, why can't they go ahead and
23 examine him and bring in such other evidence as they
24 may see fit because of the information brought out by
25 the testimony of one of the witnesses here?

MR. TAVENNER: There would be no objection,

1 if the Tribunal please, to that procedure if it were con-
2 fined to cross-examination on the affidavit presented.
3 But if now it is intended, as indicated, to begin over
4 again by the filing of a new affidavit, presumably
5 concerning matters not related to the original affida-
6 vit, we take the position that such affidavit should be
7 served under the rules of the Tribunal before we are
8 compelled to cross-examine or to make objections to the
9 introduction of it. And, of course, there is always
10 the possibility that after an affidavit is presented,
11 a decision may be reached not to cross-examine.

12 But these are all matters, if the Tribunal
13 please, with which Major Lopez was dealing, and as to
14 which I have been unable to discuss the matter with him.

15 In any event, since we have now been told that
16 a new affidavit is to be prepared, we certainly think
17 it is within the rule of the Tribunal that that affida-
18 vit be served on us just as any other affidavit. I
19 can see the possibility, though I know nothing about it
20 as to this particular witness, of going this long dis-
21 tance at great inconvenience to the Tribunal as well as
22 every other person, and find some matter being brought
23 up as to which there is a document in our possession
24 here which would only necessitate another trip. So
25 all that I am asking now is that the affidavit be served

1 on us in the usual way, after which some decision will
2 be reached.

3 ACTING PRESIDENT: The prosecution have been
4 assured that they will have every opportunity to meet
5 any new evidence that is put up, introduced into court.
6 The only question now is with this particular witness,
7 as to his illness, and so on, which is the best way
8 to do it. The normal way to do would be for the defense
9 to present this matter by affidavit as you suggest,
10 Mr. Prosecutor. This seems to be developing now into a
11 combination of further examination as well as cross-
12 examination.

13 MR. COLE: Sir, my main concern throughout
14 has been the matter of Colonel ISHII's health. The
15 last word I have had is that he is in good enough con-
16 dition now to stand cross-examination. By the same
17 token, he is strong enough to stand the operation which
18 he needs.

19 The additional affidavit was the suggestion
20 of the Acting President this morning, whereas we only
21 want a few additional questions on direct examination.
22 If Colonel ISHII were present in court as a witness,
23 under the previous practice we would be allowed a few
24 additional questions of direct examination, and that
25 is all we want.

1 ACTING PRESIDENT: On the contrary, if the
2 witness were on the stand, we could call him back.
3 Now this requires another commission, possibly.

4 MR. COLE: My point is this, sir: I feel
5 that the commission should be arranged and should be
6 sent to the hospital as soon as possible, and that we
7 be allowed a few additional questions of direct exami-
8 nation, which we would be allowed in court, without
9 further notice to the prosecution.

10 ACTING PRESIDENT: The difference is, Mr. Cole,
11 that if the witness were in court and the few additional
12 questions brought out something new, the prosecution
13 would have their documents here where they could go
14 and properly cross-examine him. On the other hand, if
15 the commission and the hearing is held up at Karuizawa,
16 or wherever it is, up in that neighborhood, and the
17 prosecution does not have those documents, it would
18 require a second session of the commission.

19 Can't you get together with the prosecution
20 and tell them what your questions are going to be, and
21 then they will be prepared and perhaps they can go
22 right through, there, with one hearing of the commission
23 that is, if the prosecution still desires to cross-
24 examine the witness.

25 MR. TAVENNER: If it please the Tribunal,

1 the answers to those questions is far more important than
2 the questions. And it would seem to me to be such a
3 simple matter to prepare the affidavit just as the first
4 one was, serve it under the rules of the Tribunal, and
5 then all questions relating to it can be easily
6 determined.

7 MR. COLE: I repeat that the only objection,
8 sir, is the matter of time. This operation is being
9 postponed until we can be finished with Colonel ISHII,
10 and obtaining the affidavit would take much more time.

11 ACTING PRESIDENT: The majority seem to feel
12 that there should be an affidavit first, and also that
13 the prosecution may know what new matter they have to
14 meet.

15 MR. COLE: We will proceed accordingly, sir.
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1 I offer in evidence defense document
2 2679-A, a certificate which discloses the
3 unavailability of certain documents referred to in
4 General MUTO's testimony.

5 ACTING PRESIDENT: Mr. English.

6 MR. ENGLISH: We object to the document,
7 page 1, the opening paragraph; specifically to the
8 words "...were burnt at the end of the War and..."
9 We do not think the man who made the certificate is
10 competent to state that the documents were burnt.

11 ACTING PRESIDENT: If there is any question
12 as to the truthfulness of this certificate, you can
13 ask to have him called for cross-examination.

14 MR. ENGLISH: Mr. Cole is willing to delete
15 the words.

16 Mr. Cole has agreed to delete the words and
17 because of that we do not object to the rest of the
18 affidavit.

19 ACTING PRESIDENT: The document will be
20 admitted.

21 CLERK OF THE COURT: Defense document
22 2679-A will receive exhibit No. 3461.
23

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No. 3461
and received in evidence.)

1 MR. COLE: May it please the Tribunal, I
2 offer now in evidence defense document 1251. This
3 document, I believe, has been tendered before and
4 rejected. We do not intend to read any of it, but
5 merely to refer to Article 13, page 3, which comments
6 on the duties of an Army Vice-Chief of Staff.

7 ACTING PRESIDENT: The document will be
8 admitted.

9 CLERK OF THE COURT: Defense document 1251
10 will receive exhibit No. 3462.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit No. 3462
13 and received in evidence.)

14 MR. COLE: We now offer in evidence defense
15 document 2833, an excerpt of the Parliament Member
16 Election Law, for reference only.

17 ACTING PRESIDENT: The document will be
18 admitted.

19 CLERK OF THE COURT: Defense document 2833
20 will receive exhibit No. 3463.

21 (Whereupon, the document above re-
22 ferred to was marked defense exhibit No. 3463
23 and received in evidence.)

24 MR. COLE: Similarly with defense document
25 2835, an excerpt from the Army Criminal Law.

1 ACTING PRESIDENT: The document is admitted.

2 CLERK OF THE COURT: Defense document 2835
3 will receive exhibit No. 3464.

4 (Whereupon, the document above re-
5 ferred to was marked defense exhibit No. 3464
6 and received in evidence.)

7 MR. COLE: Likewise with defense document
8 2834, an excerpt from The Imperial Precepts To The
9 Soldiers and Sailors.

10 ACTING PRESIDENT: The document is admitted.

11 CLERK OF THE COURT: Defense document 2834
12 will receive exhibit No. 3465.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 3465
15 and received in evidence.)

16 MR. COLE: We offer in evidence defense
17 document 2860, a certificate of non-availability,
18 which was referred to at the close of my opening
19 statement.
20

21 ACTING PRESIDENT: The document is admitted.

22 CLERK OF THE COURT: Defense document 2860
23 will receive exhibit No. 3466.

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No. 3466
and received in evidence.)

1 ACTING PRESIDENT: The document is admitted.

2 CLERK OF THE COURT: Defense document 2835
3 will receive exhibit No. 3464.

4 (Whereupon, the document above re-
5 ferred to was marked defense exhibit No. 3464
6 and received in evidence.)

7 MR. COLE: Likewise with defense document
8 2834, an excerpt from The Imperial Precepts To The
9 Soldiers and Sailors.

10 ACTING PRESIDENT: The document is admitted.

11 CLERK OF THE COURT: Defense document 2834
12 will receive exhibit No. 3465.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 3465
15 and received in evidence.)

16 MR. COLE: We offer in evidence defense
17 document 2860, a certificate of non-availability,
18 which was referred to at the close of my opening
19 statement.
20

21 ACTING PRESIDENT: The document is admitted.

22 CLERK OF THE COURT: Defense document 2860
23 will receive exhibit No. 3466.

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No. 3466
and received in evidence.)

1 MR. COLE: I respectfully refer the
2 Tribunal's attention to exhibit No. 2578, which is
3 a further certificate regarding non-availability.

4 Sir, we will discontinue our presentation
5 at this point. We cannot close because of the
6 outstanding matter regarding Colonel ISHII.

7 ACTING PRESIDENT: Mr. Roberts.

8 MR. ROBERTS: May it please the Tribunal, I
9 read the opening statement concerning the accused
10 OKA, Takazumi, defense document No. 2830.

11 ACTING PRESIDENT: You may proceed.

12 MR. ROBERTS: After careful consideration
13 of the evidence adduced concerning the defendant OKA,
14 it is obvious that he has been indicted --

15 ACTING PRESIDENT: Mr. Roberts, may I
16 interrupt?

17 I have just been informed that the SHIDEHARA
18 commission report is ready. It might be a good idea
19 to have that interpolated between these two defendants.

20 MR. ROBERTS: I have no objection.

21 I think Mr. Brooks, however, is in charge of
22 the commission. Perhaps we ought to send for Mr. Brooks.
23 I believe there are other counsel who also desire to
24 be present and whether or not we can proceed without
25 them I am not in a position to say.

1 ACTING PRESIDENT: Under those circumstances,
2 we had better not delay. The only question now is
3 when we will take it up.

4 How long do you think you will take?

5 MR. ROBERTS: I think there will be nothing
6 lost by delaying until we finish our case, which will
7 not take long.

8 ACTING PRESIDENT: All right, we will take up
9 the matter of the commission of Baron SHIDEHARA at the
10 conclusion of your case.

11 MR. ROBERTS: (Continuing)

12 After careful consideration of the evidence
13 adduced concerning the defendant OKA, it is obvious
14 that he has been indicted and is now on trial not
15 for any acts which he committed, but rather because
16 he occupied a certain position which the prosecution
17 has erroneously contended, presupposes a guilty
18 participation in an alleged conspiracy. If this
19 theory were correct, then thousands of career men in
20 similar Government positions should likewise be held
21 responsible for the alleged acts of others and they,
22 too, should be in the prisoners's box. It will be
23 shown that this Indictment by general sweeping state-
24 ments and trial by inference is not legally sufficient
25 to prove any participation in a conspiracy to wage

1 aggressive war or any of the other crimes charged
2 against this defendant.

3 Although the defendant OKA is included
4 in the blanket Indictment for conspiracy to wage
5 aggressive war in the first seventeen counts, he is
6 not included in the specific counts numbered 18 and
7 19 relating to initiating a war of aggression against
8 China on 18 September 1931, and 7th July 1937. He
9 is likewise not included in the specific counts
10 numbers 23, 25 and 26, relating to initiating a war
11 of aggression against France, the U.S.S.R., the
12 Mongolian Peoples' Republic, and in counts numbered
13 33, 35 and 36 relating to waging a war of aggression
14 against France, the Mongolian Peoples' Republic and
15 the U.S.S.R. In Group Two, relating to Murder, the
16 defendant OKA is not included in the specific counts
17 numbered 45, 46, 47, 48, 49, 50, 51 and 52 relating
18 to alleged murder in China and the U.S.S.R.

19 It is obvious that the participation of the
20 defendant OKA in the Manchurian Affair and the China
21 Incident was based upon presumption because of a
22 committee membership which he held and because he was
23 decorated for "his services" in both Incidents (Record
24 Page 16, 968.)

25 It will be shown that OKA did not participate

1 aggressive war or any of the other crimes charged
2 against this defendant.

3 Although the defendant OKA is included
4 in the blanket Indictment for conspiracy to wage
5 aggressive war in the first seventeen counts, he is
6 not included in the specific counts numbered 18 and
7 19 relating to initiating a war of aggression against
8 China on 18 September 1931, and 7th July 1937. He
9 is likewise not included in the specific counts
10 numbers 23, 25 and 26, relating to initiating a war
11 of aggression against France, the U.S.S.R., the
12 Mongolian Peoples' Republic, and in counts numbered
13 33, 35 and 36 relating to waging a war of aggression
14 against France, the Mongolian Peoples' Republic and
15 the U.S.S.R. In Group Two, relating to Murder, the
16 defendant OKA is not included in the specific counts
17 numbered 45, 46, 47, 48, 49, 50, 51 and 52 relating
18 to alleged murder in China and the U.S.S.R.

19 It is obvious that the participation of the
20 defendant OKA in the Manchurian Affair and the China
21 Incident was based upon presumption because of a
22 committee membership which he held and because he was
23 decorated for "his services" in both Incidents (Record
24 Page 16, 968.)

25 It will be shown that OKA did not participate

1 in either Incident, directly or indirectly, and
2 the Awards made to him were part of general Awards
3 to many thousands of navy men. The Manchurian
4 Affairs Committee appointment (being from January
5 1938 to November 1939) was an automatic perfunctory
6 appointment coexistent with the office he occupied,
7 wherein no action was taken by the defendant.

8 It will be shown that in October 1931, OKA
9 was a member of the staff in the Research Section,
10 Navy Ministry, and from October 1932 to April 1934,
11 he was a member of the suite of the Japanese Naval
12 Delegation to the League of Nations Standing Military
13 Commission and also as a member of the suite of the
14 Japanese Delegation to the general disarmament
15 conference in Geneva he was stationed in Paris and
16 Geneva. Upon his return to Japan he re-entered the
17 Navy Ministry and served in the Temporary Research
18 Section. That in December 1937, he was Captain of
19 the battleship "Jingei" and served on coastal patrol
20 along the Japanese coast and that from December 1,
21 1937 up to January 14, 1938, he served in the Naval
22 General Staff and concurrently in the Navy Ministry.
23 Thus, it will be evident that he could not be involved
24 in the Manchurian Incident, the signing of the Anti-
25 Comintern Pact and the China Incident which occurred
during the foregoing dates.

1 The prosecution has placed great emphasis
2 upon the fact that OKA was the Director of the Naval
3 Affairs Bureau and alleges that the importance of
4 his position is shown by the fact that he attended
5 a number of liaison conferences, Imperial Confer-
6 ences and Investigating Committee Meetings of the
7 Privy Council. This is another erroneous presump-
8 tion. The evidence will show that all of the fore-
9 going meetings were attended by OKA in the capacity
10 of a secretary or explainer. Although this is self-
11 evident from the exhibits introduced by the prose-
12 cution, we shall, in addition to pointing out such
13 disclosures in said exhibits, also present the
14 testimony of a former Navy Minister to incontrovert-
15 ibly prove that OKA had no voice or vote at said
16 meetings and was in no position to participate in
17 the policies formulated therein.

18 We shall further prove that the afore-
19 mentioned conferences and meetings were always
20 attended by two categories of persons. One category
21 was the members who usually occupied some cabinet
22 or similarly high position and the other was the
23 secretaries or explainers who were usually bureau
24 heads attending for the purpose of assisting or
25 presenting material to assist their superiors. We

1 shall further prove that OKA only attended as a
2 subordinate, never without his superior being present
3 as a member, and always acted in a subordinate manner,
4 without power to participate in the decisions or even
5 engage in discussions except when asked. The prose-
6 cution admitted OKA's inability to vote at these
7 meetings, record page 16,972, and proceeded to say
8 it was of little importance because the proceedings
9 were always unanimous. It is not stated how the
10 secretaries who did not vote showed unanimous
11 approval. The prosecution then stated further that
12 "the important point is that they fix him with full
13 knowledge of the policy to be pursued which, we
14 submit, his position gave him great power of shap-
15 ing, and he retained that position." This is a
16 further presumption based on no act or acts of the
17 defendant. The evidence will show that OKA occupied
18 his post in a manner similar to other naval officers
19 and that he was unable to resign of his own accord,
20 even should he so desire.

22 The evidence will show that on October 15,
23 1940, OKA became Director of the Naval Affairs
24 Bureau, Navy Ministry; that the Director of the
25 Naval Affairs Bureau in the Navy Ministry, like other
Bureau Directors, received his commands and orders

1 from the Navy Minister, and it was his duty to carry
2 out the matters decided by the Navy Minister under
3 the supervision of the Vice Navy Minister, and he
4 was simply one of the aides of the Navy Minister.

5 The proof to be adduced will also show that
6 OKA continued as Director of the Naval Affairs Bureau
7 after the formation of the TOJO Cabinet, even though
8 there was a reshuffle in the Prime Minister or the
9 Navy Minister because the custom prevailed in the
10 Navy that such a shift should not affect the per-
11 sonnel ranking below that of the Vice Navy Minister.
12 Thus OKA remained in his post, not of his own free
13 will, but pursuant to the order from his superior
14 officer to remain; nor did OKA personally solicit
15 the entry of Admiral YONAI in the TOJO Cabinet in
16 order to strengthen it during the closing days of
17 the TOJO Cabinet, but that such a solicitation was
18 made upon the order of Admiral Naokuni NOMURA, the
19 then Navy Minister.
20

21 We shall prove to the satisfaction of this
22 Tribunal that OKA at all times acted in accordance
23 with the policies formulated by his superiors and
24 insisted on his subordinates acting in a similar
25 manner. It will be shown through competent wit-
nesses that OKA expended considerable effort on

1 behalf of the Japanese-American negotiations and
2 worked unceasingly for the successful conclusion of
3 such negotiations. It will be shown that because of
4 his known sympathetic attitude he was tentatively
5 selected as one of the attendants to the suite to
6 accompany Prince KONOYE on his proposed meeting with
7 President Roosevelt, and he actually participated
8 in preparing a steamship to carry the delegates to
9 the proposed meeting.

10
11 It will be shown that the alleged state-
12 ments made by OKA and referred to by the prosecution
13 as proof of his power to stop the war, record page
14 16,971, were in fact messages being delivered by
15 him for and on behalf of his superiors. This is
16 another erroneous premise relied upon by the prose-
17 cution which falls of its own weight. It is indeed
18 very flattering to the accused to credit him with
19 absolute power to plunge his nation into war, when
20 he was only a bureau chief, but the true facts will
21 point out the utter absurdity of this contention.

22 Similarly, the assertion that the formula
23 for the American-Japanese negotiations was under the
24 direct personal influence of OKA is based upon an
25 erroneous conception. It will be shown that the
Foreign Office was in charge of the preparation of

1 said formula and that OKA was in no position to
2 exercise any personal influence in drafting such
3 an important policy. The evidence already adduced
4 and to be adduced will show that the formula was
5 prepared by the Foreign Office and copies were sent
6 to all the Ministers for their suggestions. The Navy
7 made its suggestions from time to time and in accord-
8 ance with the regular routine procedure. It will be
9 demonstrated that the foregoing presumption, which
10 is based on exhibit 1115, record page 16,970, is
11 erroneous and that the true interpretation of OKA's
12 connection with said formula is limited to the pro-
13 cedure outlined above. It is also recalled that the
14 prosecution's interpretation has been corrected by
15 the defendant KIDO on page 31,238 of the record.

16 The prosecution also laid great emphasis
17 upon OKA's presumed powers by stating that he
18 attempted to bolster the TOJO Cabinet in 1944 by
19 urging Admiral YONAI to join the Cabinet. However,
20 the evidence will dissipate this presumption by
21 showing the true facts through the Navy Minister who
22 ordered OKA to make this inquiry on his behalf.

23 It has likewise been contended that OKA's
24 appointment to a great number of committees was also
25 proof of his great importance. Again it is only a

1 presumption, based upon no proof of any specific
2 act or acts. It will be shown that, by virtue of
3 his position as Director of the Naval Affairs Bureau,
4 OKA was pursuant to custom and procedure automatic-
5 ally appointed to many committees, for the purpose
6 of carrying out liaison work with Bureau heads of
7 the other Ministries. It will appear that the
8 appointment thus accompanied the office regardless
9 of the individual. It will be shown that he seldom,
10 if ever, attended the meetings of the various
11 committees referred to by the prosecution in ex-
12 hibit 120, and usually required the various section
13 heads or the person in charge to attend to those
14 matters with which they were directly concerned.
15 The primary reason for such committee meetings was
16 the exchange of information between the various c
17 ministries.

18 The defendant is charged with crimes against
19 humanity in Group III of the Indictment, and the
20 evidence again is based upon presumption.

21 The prosecution alleges that the Naval
22 Affairs Bureau had similar jurisdiction to the
23 Military Affairs Bureau for the handling of prisoners
24 of war. The evidence already adduced has clearly
25 proven that prisoners of war were handled only by

1 the Army through the Prisoner of War Information
2 Bureau and the Army organs. In some instances the
3 naval combat units would temporarily hold prisoners
4 before turning them over to the Army and those were
5 handled by the respective commanders of the units
6 as a part of operations. Similarly, when some
7 prisoners were temporarily held in a naval station
8 camp they were held under the supervision and con-
9 trol of the commander of said naval station. The
10 only requirement under the naval regulations was
11 that the names and the number of prisoners being
12 held should be reported to the Navy Minister for
13 administrative purposes. The evidence adduced and
14 to be adduced will convincingly prove that notices
15 of protests were usually addressed to the Chief of
16 the Prisoner of War Information Bureau and/or the
17 War Vice Minister. In only one instance was it
18 shown that a copy of a letter was forwarded to the
19 Naval Affairs Bureau. This was in April, 1945, about
20 one year subsequent to the defendant's vacating that
21 office.

22 Insofar as the atrocities at sea were con-
23 cerned, there was no proof of the fact that the Navy
24 Ministry or its subservient Naval Affairs Bureau
25 were responsible for or had knowledge of the acts

1 charged. The evidence already adduced has demon-
2 strated that no overall policy was ever adopted or
3 pursued by the General Staff which ordered the
4 destruction or mistreatment of prisoners and sur-
5 vivors but to the contrary many specific orders
6 requiring fair treatment were introduced into
7 evidence. It was charged that the Central Command
8 issued verbal orders for the destruction of prisoners
9 of war, but this was emphatically denied by the
10 General Staff Commander. However, it will appear
11 that any attempt on the part of the prosecution to
12 fix any responsibility upon the defendant OKA for
13 these acts is utterly baseless and without any
14 foundation whatsoever.

15 The defendant OKA was appointed Vice-
16 Minister of the Navy on 18 July 1944 and served in
17 this capacity until August 5, 1944. On September
18 9, 1944, he was appointed Commander of the Chinkai
19 Naval Station and served until June, 1945, when he
20 retired and was put on the reserve list.

21 We respectfully submit that no evidence
22 has been introduced to substantiate the charges
23 made against the defendant OKA, and the facts to be
24 related will clearly show that the case against him
25 is based on a misconception; that the positions

1 charged. The evidence already adduced has demon-
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3 pursued by the General Staff which ordered the
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17 this capacity until August 5, 1944. On September
18 9, 1944, he was appointed Commander of the Chinkai
19 Naval Station and served until June, 1945, when he
20 retired and was put on the reserve list.

21 We respectfully submit that no evidence
22 has been introduced to substantiate the charges
23 made against the defendant OKA, and the facts to be
24 related will clearly show that the case against him
25 is based on a misconception; that the positions

1 occupied by OKA, as one of the subordinates in the
2 Navy Ministry, gave him no authority to participate
3 in formulating important state policies; that he
4 could not and did not participate in any conspiracy
5 to wage a war of aggression but, as a subordinate
6 member of the fighting forces, was guilty of
7 "faithfully serving his country," once the war began.

8 I offer in evidence defense document No.
9 1902, which is the affidavit of the witness TOMITA,
10 Kenji, who is presently out of the city. Prosecution
11 counsel has waived his appearance at this time, at
12 my request, without prejudice and with the under-
13 standing that if the Tribunal or if counsel, with
14 the permission of the Tribunal, wish to question
15 TOMITA, he will be produced accordingly.

16 ACTING PRESIDENT: The document will be
17 admitted under those conditions.

18 CLERK OF THE COURT: Defense document 1902
19 will receive exhibit No. 3467.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 3467 and received in evidence.)

23 MR. ROBERTS: I shall read exhibit No.
24 3467, omitting the formal parts:

25 "I occupied the position of Chief Secretary

1 of the Cabinet from 22 July 1940 to October 15,
2 1941, during which time I had frequent interviews
3 with Navy Minister OIKAWA, Koshiro, and OKA,
4 Takazumi, Director of the Naval Affairs Bureau.
5 They frequently expressed themselves as being
6 anxious to continue with the American-Japanese
7 diplomatic negotiations and also expressed a sin-
8 cere desire to help bring about a successful con-
9 sumption of such negotiations.

10 "On July 16, 1941, the Second KONOYE
11 Cabinet resigned and the Third KONOYE Cabinet was
12 formed. The resignation took place because it was
13 felt that MATSUOKA's presence would be a hindrance
14 to the progress of the Japanese-American negotiations.
15 The Third KONOYE Cabinet was formed about July 20.
16 The primary reason for the formation of this
17 Cabinet was to expedite the proposed negotiations
18 with the United States. While discussing the pro-
19 posal, I had occasion to have frequent interviews
20 with OKA since August, 1941. He expressed himself
21 as being most anxious to continue Japanese-American
22 negotiations and emphasized the fact that KONOYE
23 should be delegated with full discretionary powers
24 to negotiate with Roosevelt in order to settle the
25 matter as quickly as possible. OKA further stated

1 that he would assist in making preparations for a
2 ship to transport the delegation and hoped to be-
3 come a member of such a suite in attempting to
4 consummate the negotiations. On August 17, 1941,
5 the suggestion was first made to President Roosevelt
6 by Ambassador NOMURA personally concerning our re-
7 quest for a meeting between KONOYE and Roosevelt.

8 "On October 11, 1941, I paid a visit to OKA
9 at his residence and told him that a meeting was to
10 be held on the following day, October 12, at Prince
11 KONOYE's house in Ogikubo and I hoped that a strong
12 stand would be taken by the Navy to support Prince
13 KONOYE. The general feeling in the Navy was already
14 inclined to oppose continuation of the negotiations,
15 and OKA at that time stated that Prince KONOYE
16 should be encouraged to continue the negotiations.
17 Later, the same evening, I called on Navy Minister
18 OIKAWA at his official residence, at which time the
19 Navy Minister also stated that he wished to avoid
20 an American-Japanese war and that it was his desire
21 that the negotiations be continued by all means.
22 He stated however that the Navy, in view of its
23 position as a fighting unit, couldn't officially
24 make a statement that it was opposed to war; that
25 it was the duty of the Navy to observe orders if it

1 became necessary to fight and the decision whether
2 to wage war or not was a diplomatic question which
3 was appropriately within the province of the Premier
4 for determination. To these observations, I ex-
5 pressed the wish that it would be well for the Navy
6 Minister at the Ogikubo Conference of the 12th of
7 October to support Premier KONOYE in his efforts
8 to continue American-Japanese negotiations.
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K 1 "The next morning, October 12, I received a
a 2 telephone call from OKA who stated that the Navy Minister
p 3 at the conference being held the same date intended to
l 4 state that the decision for war or peace would be left
e 5 in the hands of the Prime Minister. He further stated
a 6 that the navy could not decide whether a war should be
u 7 waged or not, that it was a matter to be determined by
& 8 the Prime Minister although it was desired that the
K 9 Prime Minister should definitely pursue his course in
n 10 order that war might be avoided. At that time OKA ob-
a 11 served that the KONOYE Cabinet should not resign so
p 12 that it might continue with its efforts to bring about
p 13 a compromise and that if it did resign there was a
14 grave danger of war breaking out. He urged me to do
15 everything possible to prevent Prince KONOYE from re-
16 signing. He therefore stated that for all practical
17 purposes he hoped that the American-Japanese negotiations
18 would be successfully concluded.

19 "Thereafter when the Third KONOYE Cabinet re-
20 signed OKA expressed himself as being gloomy over the
21 prospects of the American-Japanese negotiations. Even
22 after the resignation of the Third KONOYE Cabinet OKA
23 kept Prince KONOYE informed of the subsequent develop-
24 ments pertaining to the American-Japanese negotiations
25 through me. He stated that this was because Prince

1 KONOYE was one of the important senior statesmen and it
2 was his intention to activate Prince KONOYE to continue
3 his efforts to bring about peace between the United
4 States and Japan.

5 "OKA also stated that he did not think Japan
6 should under any circumstances engage in a full-scale
7 conflict with a powerful country like the United States.
8 However, he frequently expressed himself as being a
9 subordinate who would be compelled to follow orders
10 whether or not they were in accord with his own personal
11 views.

12 "During the many times that I came in contact
13 with OKA I observed that he was a man who worked under
14 orders and did not disregard the wishes of his superiors."

15 At this time my co-counsel, Mr. SOMIYA, will
16 introduce the next witness.

17 ACTING PRESIDENT: Mr. SOMIYA.

18 MR. SOMIYA: I should now like to call witness
19 HOSHINA, Zenshiro.
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1 Z E N S H I R O H O S H I N A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Witness, state your name and address to the
7 Tribunal.

8 A My name is HOSHINA, Zenshiro. My address is
9 No. 959 Tamagawa Nakamachi, 1-Chome, Setagaya-ku, Tokyo.

10 MR. SOMIYA: May the witness be shown defense
11 document No. 2737?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Is that your affidavit, made by you?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. SOMIYA: I present in evidence defense
19 document No. 2737.

20 ACTING PRESIDENT: Commander Robinson.

21 COMMANDER ROBINSON: Mr. President and Members
22 of the Tribunal, the prosecution has no objection to
23 defense document 2737 except to paragraph 4 at page 2.
24 The ground of the objection is that this statement is not
25 a statement of fact but is merely the opinion and

1 conclusion of the witness on an issue which is within
2 the exclusive jurisdiction of this Tribunal.

3 ACTING PRESIDENT: Is that your only objection?

4 COMMANDER ROBINSON: Yes, it is.

5 ACTING PRESIDENT: The objection is sustained
6 as to paragraph 4; otherwise the document will be ad-
7 mitted into evidence.

8 CLERK OF THE COURT: Defense document 2737 will
9 receive exhibit No. 3468.

10 (Whereupon, the document above
11 referred to was marked defense exhibit No.
12 3468 and received in evidence.)

13 MR. SONIYA: I now read exhibit 3468:

14 "1. I am former Vice Admiral in the Navy. I
15 was Chief of Military Preparations Bureau, Navy Ministry,
16 from November 15, 1940 to May 1945. On May 15, 1945, I
17 assumed the post of Chief of Naval Affairs Bureau, and
18 held that position up to November 17, 1945. Therefore,
19 I am familiar with the duties of Chief of Naval Affairs
20 Bureau.

21 "2. The Naval Affairs Bureau, as set forth in
22 the government-established organization of Navy Ministry,
23 like other bureaus in the Navy Ministry, is subject to
24 the commands and orders of the Navy Minister, and func-
25 tions under the direct supervision of the Vice Navy

1 Minister. Therefore, as Chief of Naval Affairs Bureau,
2 OKA was responsible, like chiefs of other bureaus, only
3 to the Navy Minister in the performance of his duties.

4 "3. The Chief of Naval Affairs Bureau drafts
5 plans for matters within his functions as provided for
6 in the government-established organization of Navy
7 Ministry; submits them to the Navy Minister for his
8 approval; and goes through the routine procedure to
9 execute such approved matters. So, OKA carried out his
10 duties as one of the aides to the Navy Minister." ***

11 "5. As Chief of Naval Affairs Bureau, OKA
12 could not resign from his office on the ground that his
13 opinion was different from that of the Navy Minister or
14 that of the Vice Navy Minister. But when being ap-
15 pointed, OKA's consent was not required. On the other
16 hand, although the Navy Minister and the Vice Navy
17 Minister are naval officers, since their status are those
18 of civilians, they are free to submit their resignations
19 at any time. Also, they are appointed upon their con-
20 sent.

21 "6. In the interrogation of Admiral NAGANO
22 (court exhibit No. 1197) it appears that the Chief of
23 Naval Affairs Bureau drafted operational plans (this
24 error was corrected in the court.) This sort of opera-
25 tional plans were drafted by the Naval General Staff.

HOSHINA

DIRECT

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1 The operational plans for Pearl Harbor and other opera-
2 tional matters were the responsibility of the Naval
3 General Staff or the Commander in Chief of the Fleet,
4 and OKA, as Director of Naval Affairs Bureau, who was
5 in charge of naval administration, was not connected
6 therewith.
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"7). When it was necessary to negotiate with outsiders in handling matters coming within its jurisdiction as set forth in the government-established organization of Navy Ministry, it was customary for the Ministry to do so through the Naval Affairs Bureau. For that reason the Chief of Naval Affairs Bureau or members of the Bureau, as a matter of convenience in maintaining liaison between the Navy and the various ministries of the Government were frequently appointed as councillors or members of the committees or of those ministries.

"In other words, among various jurisdictional matters there were some which involved other ministries, and which often required their cooperation. For this reason when it was necessary, committees were organized, the members being appointed from the various ministries concerned. As members of these committees, the Navy Ministry dispatched men from its appropriate bureaus and whenever matters came under the jurisdiction of the Naval Affairs Bureau, men within the Bureau were appointed as members to such committees. In most cases it was the custom to appoint as committee members the Chiefs of bureaus or chiefs of sections and their principal duties were to act as liaison men.

"Because there were so many committees, with

1 the exception of important committees which Chiefs
2 of Bureaus and sections themselves attended, in most
3 cases the principal persons within the bureau attend-
4 ed these committee meetings, so it was not often that
5 OKA attended in person.

6 "The examples are given in the following:

7 "a) As Chief of Naval Affairs Bureau, OKA
8 was automatically appointed an official of the National
9 General Mobilization Committee. However, the bills
10 introduced in the meetings were prepared by the Plan-
11 ning Board or by the ministries concerned. Due to his
12 other numerous duties, it was rare that he attended
13 these meetings in person.

14 "b) As Chief of Naval Affairs Bureau, OKA
15 was automatically appointed a councillor of the Plan-
16 ning Board. It was customary to submit important
17 matters prepared by the Planning Board to the meeting
18 of councillors, but as compared with councillors from
19 other Ministries, OKA did not possess special authority
20 and he seldom attended the committee meetings.

21 "c) As Chief of Naval Affairs Bureau, OKA
22 was automatically appointed a councillor of the Man-
23 churia Affairs Bureau, but since the Navy had little
24 to do with Manchuria, his appointment was merely nominal.
25 The person in charge of the matters concerned or a sec-

1 tion chief of the Bureau attended the meetings, and
2 OKA rarely attended.

3 "d) As Chief of Naval Affairs Bureau, OKA
4 was automatically appointed a councillor of the
5 South Seas Board in the Overseas Affairs Ministry,
6 but its meetings were rarely held.

7 "e) As Chief of Naval Affairs Bureau, OKA
8 was automatically appointed a member of the Cabinet
9 Information Section. It held regular luncheon meet-
10 ings and views on the problems submitted by the Infor-
11 mation Section were exchanged. There was no connec-
12 tion whatever with the strengthening of the Anti-
13 Comintern Pact or the Tripartite relations. Either a
14 section chief or a member from the Naval Affairs Bureau
15 attended the meetings and OKA's presence was very rare.

16 "f) As Chief of Naval Affairs Bureau, OKA
17 was automatically appointed a member of the Admirals
18 Committee. The Admirals Committee held meetings prin-
19 cipally to discuss the matter of promotion in the navy,
20 but not one meeting was held during his tenure of office.

21 "During the time I was Chief of Military
22 Preparations Bureau in the Navy Ministry, I was not
23 only directly associated with OKA in connection with
24 my duties, but socially as well I was in contact with
25 him. Therefore, I knew well that OKA worked hard to

1 avoid war with the United States. As a Chief of
2 one of the bureaus in the Navy Ministry, I constantly
3 exchanged views with OKA, and I know that he had a
4 strong desire that Japan should avoid war with the
5 United States and that he did not keep his desire to
6 himself. When the negotiations ended unsuccessfully,
7 he was very much disappointed."

8 ACTING PRESIDENT: We will recess for fif-
9 teen minutes.

10 (Whereupon, at 1445, a recess
11 was taken until 1500, after which the
12 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 A.R. SOLIYA: The prosecution may cross-
4 examine the witness.

5 ACTING PRESIDENT: I have two questions by
6 a member of the Tribunal.

7 What were the duties of the Navy Minister
8 with regard to the prisoners of war who were tempor-
9 arily in the custody of the Navy?

10 THE WITNESS: May I have the question re-
11 peated?

12 THE MONITOR: Japanese court reporter.

13 (Whereupon, the Japanese court
14 reporter read.)

15 THE WITNESS: With regard to prisoners of
16 war under naval jurisdiction, the Navy Minister acted
17 according to fixed regulations, and I know of no
18 pertinent orders that were issued by the Navy Minis-
19 ter in connection with this matter.

20 ACTING PRESIDENT: Did the Navy Minister
21 have regulations covering the treatment of prisoners
22 of war?

23 THE WITNESS: In view of the fact that I
24 was not the Chief of the Naval Affairs Bureau during
25 that time -- wartime, I believe that the Court will

1 have a more satisfactory reply to that question from
2 more qualified witnesses.

3 ACTING PRESIDENT: Do you know what were
4 the duties of the Chief of the Naval Affairs Bureau
5 with regard to prisoners of war?

6 THE WITNESS: That is to assist the Minister
7 of the Navy and to see to it that any decisions
8 determined by the Navy Minister were carried out --
9 adequately carried out.

10 ACTING PRESIDENT: Very well.

11 CAPTAIN ROBINSON: Mr. President and Mem-
12 bers of the Tribunal.

13 CROSS-EXAMINATION

14 BY CAPTAIN ROBINSON:

15 Q Admiral HOSHINA, you were the Chief of the
16 Naval Affairs Bureau for six months in 1945.

17 A Yes.

18 Q Were you officially a member of the staff
19 in the Naval Affairs Bureau while the defendant,
20 Admiral OKA, was Chief of the bureau?

21 A No.

22 Q Therefore, your statements in regard to his
23 conduct of his duties as chief of the bureau are not
24 based on personal observation by you as a member of
25 the bureau staff.

1 A No, but I am quite familiar with how Admiral
2 OKA, as Director of the Naval Affairs Bureau, con-
3 ducted the business of his department because, while
4 he was Chief of the Naval Affairs Bureau, I was Chief
5 of the Military Preparations Bureau of the same
6 ministry and had occasions to meet him several times
7 a day in the performance of our respective duties.

8 Q Therefore, you had the opportunity to ob-
9 serve the manner in which he performed his duties
10 in that bureau with respect to prisoners of war,
11 did you not?

12 A Yes. But as far as the actual treatment of
13 prisoners of war were concerned, this matter was
14 entirely in the hands of the commander in the field
15 or naval units in the field. But my understanding
16 is only limited to the knowledge that adequate
17 measures were being carried out in accordance with
18 general orders issued by the Navy Ministry.

19 Q That, of course, is not an answer to my
20 question. You have no knowledge, then, of positive
21 action taken by the defendant OKA in the Naval Affairs
22 Bureau in connection with prisoners of war, is that
23 right, yes or no?

24 A I am not familiar with the details.

25 Q In your affidavit, paragraph No. 2, second

1 sentence, you state that the defendant OKA was re-
2 sponsible only to the Navy Minister in the perform-
3 ance of his duties. Now, by that statement you
4 do not mean to suggest that OKA was not responsible
5 under the constitutional laws of Japan, including
6 international treaty law, for failure to perform his
7 duties as required by law, do you?

8 L.R. ROBERTS: I object on the ground he is
9 asking the witness to take the place of this Court
10 in deciding whether or not the defendant was violat-
11 ing any laws and not performing his duties.

12 ACTING PRESIDENT: Objection overruled.

13 Q (Continuing) Your answer, please.

14 A Granted that there was such a situation,
15 then the Director of the Military Affairs Bureau
16 will be responsible for not having sufficiently
17 assisted the Navy Minister in the performance of
18 the latter's duties.

19 Q And do you mean to state then that OKA could
20 escape responsibility under the law of Japan, includ-
21 ing, of course, treaties, by putting all responsi-
22 bility on the defendant SHIMADA as Navy Minister?
23 Is that your position?
24

25 A I could not quite comprehend the question.
Is my understanding of the question correct? Did

1 you mean to say that OKA was attempting to place
2 all responsibilities on the Minister of the Navy and
3 not assuming them himself?
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1 Q Will the reporter please read the question
2 to the witness just as it was asked?

3 THE MONITOR: Japanese court reporter.

4 (Whereupon, the Japanese court
5 reporter read.)

6 A From a legal point of view the responsi-
7 bility resided only in the Minister of the Navy;
8 however, OKA has responsibilities to the Navy Minister.

9 Q That still is no answer to my question,
10 Mr. Witness. I will not repeat the question. I
11 think your answer is before the Court for what the
12 Court may see fit to place upon it.

13 In paragraph 5 of your affidavit you state
14 that OKA could not resign from his office as Chief
15 of the Naval Affairs Bureau on the ground of differ-
16 ences of opinion with the Navy Minister. As a matter
17 of fact, Admiral, could not OKA have caused the end
18 of his career as Chief of the Naval Affairs Bureau
19 very promptly by simply opposing the opinions of
20 Admiral SHIMADA as Navy Minister or General TOJO
21 as Premier?

22 A No, he could not do that. Naval officers,
23 or in fact all military officers, were assigned to
24 posts and their actions were governed by orders. They
25 could not resign their position at their own request

1 and unless any shifts were made by their superiors
2 any officer could not relinquish any post of his own
3 accord.

4 Q That is just what I am asking about. Shifts
5 could be made by their superiors; therefore, if he
6 had not accommodated his superiors in their orders
7 he could have been shifted, couldn't he?

8 MR. ROBERTS: I object to that on the
9 ground it is pure speculation.

10 ACTING PRESIDENT: Objection overruled.

11 A Well, even though, assuming that OKA opposed
12 the policy of the Navy Minister, the entire matter
13 of his remaining in office or leaving office depended
14 entirely on the desire of the Navy Minister himself
15 and unless the Navy Minister himself dismissed OKA
16 from office OKA was unable to leave his post on his
17 own accord.

18 Q His performance, however, in office was such
19 that he was retained without having been given a
20 change of assignment?

21 A I would not know that; you will have to ask
22 the Minister himself.

23 Q You do not know of any occasion when the
24 defendant OKA was subjected to court-martial or given
25 a change of assignment because of his failure to

HOSHINA

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1 cooperate with the Navy Minister, Admiral SHIMADA,
2 do you?

3 A No, there were no such cases.

4 CAPTAIN ROBINSON: That is all.

5 MR. SOMIYA: May the witness be released
6 on the usual terms?

7 ACTING PRESIDENT: He will be released
8 accordingly.

9 (Whereupon, the witness was excused.)

10 MR. SOMIYA: I next call the witness SHIBA,
11 Katsuo.
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1 K A T S U O S H I B A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Your name and address, please?

7 A My name is SHIBA, Katsuo; my address: 1083
8 Nogata-machi, 2-chome, Nakano-ku, Tokyo.

9 MR. SOMIYA: I ask that the witness be
10 handed defense document No. 2762.

11 Q Is that document drawn up by you?

12 A Yes.

13 Q Are the contents thereof true and correct?

14 A Yes.

15 MR. SOMIYA: I offer in evidence defense
16 document No. 2762.

17 ACTING PRESIDENT: The document will be
18 admitted.

19 CLERK OF THE COURT: Defense document 2762
20 will receive exhibit No. 3469.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 2762 and received in evidence.)

24 MR. SOMIYA: I now read court exhibit 3469:

25 "1. From November 1940 until January 1944,

1 I served in the Section Two of the Naval Affairs
2 Bureau, Navy Ministry. At the termination of the
3 war I held the rank of Captain. During the time I was
4 in the Naval Affairs Bureau, OKA was the Director of
5 Naval Affairs Bureau.

6 "2. From around September 1941, relations
7 between the United States and Japan became very
8 disturbed and the biggest problem was the question
9 of withdrawal of Japanese troops from China. There
10 was some opposition to this move, and we knew that
11 the Americans insisted upon this point. I heard from
12 OKA that he thought there was no harm acquiescing to
13 the withdrawal.

14 "3. OKA constantly advised his subordinates
15 that we should avoid war by all means. In the middle
16 of September there was a strong wave of feeling or
17 sentiment that these negotiations would fail, partic-
18 ularly in the Government. OKA used to come to us and
19 try to pacify us, or encourage us, and say that we
20 should not be discouraged, but should make every
21 effort to successfully conclude the negotiations.

22 "4. About October 16, 1941, the Third KONOYE
23 Cabinet resigned en bloc, and on October 18, 1941, the
24 TOJO Cabinet was formed. The TOJO Cabinet then de-
25 cided to scrap all previous understandings and start

1 afresh, and it considered the ways and means of this
2 new approach all during the month of October. In
3 November a proposed draft of new negotiations being
4 undertaken by the new Cabinet was completed. There
5 were two proposals, A and B, and the reply to these
6 proposals came on November 26 from the United States.
7 There was a great divergence between our note and the
8 American reply.

9 "5. When we received the American reply of
10 November 26, 1941, I went into OKA's office and he
11 said, 'This is indeed regrettable and the negotiations
12 are hopeless, and it might be difficult to avoid war.'
13 He shed tears and did not speak for some time. Then
14 he spoke to me again and said, 'If war is unavoidable
15 we must fight fairly and aboveboard.'

16 "6. If I remember correctly it was the 3rd
17 or 4th of December that a mimeographed copy of the final
18 note to the United States was turned over to by
19 OKA for study. This draft, I was informed, was pre-
20 pared by the Foreign Office. As to form I felt that
21 the note was inadequate as an ultimatum, and I sug-
22 gested that a clause be inserted that we reserved the
23 right of free action, which would make it a clear
24 as an ultimatum. Then he said, 'If that is so, I hope
25 you will make the necessary revision in the note.' I

1 afresh, and it considered the ways and means of this
2 new approach all during the month of October. In
3 November a proposed draft of new negotiations being
4 undertaken by the new Cabinet was completed. There
5 were two proposals, A and B, and the reply to these
6 proposals came on November 26 from the United States.
7 There was a great divergence between our note and the
8 American reply.

9 "5. When we received the American reply of
10 November 26, 1941, I went into OKA's office and he
11 said, 'This is indeed regrettable and the negotiations
12 are hopeless, and it might be difficult to avoid war.'
13 He shed tears and did not speak for some time. Then
14 he spoke to me again and said, 'If war is unavoidable
15 we must fight fairly and aboveboard.'

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17 or 4th of December that a mimeographed copy of the final
18 note to the United States was turned over to by
19 OKA for study. This draft, I was informed, was pre-
20 pared by the Foreign Office. As to form I felt that
21 the note was inadequate as an ultimatum, and I sug-
22 gested that a clause be inserted that we reserved the
23 right of free action, which would make it a clear
24 as an ultimatum. Then he said, 'If that is so, I hope
25 you will make the necessary revision in the note.' I

1 then wrote in blue pencil at the end of this draft
2 that we reserve the right of free action. OKA expressed
3 himself as being of the same opinion concerning the
4 contents of the note and approved the suggested change.

5 "7. The reason I suggested the revision of
6 the note in order to make it a clear ultimatum was
7 because of the expression of OKA in urging us previously
8 to fight fairly and aboveboard, if it should become
9 necessary.

10 "8. Subsequently I had a further conversation
11 with OKA, who stated that he had discussed the sug-
12 gested change in the note with the Foreign Office
13 representative, who informed OKA that the additional
14 language was not necessary. OKA stated that he was
15 further informed that the note was considered an ulti-
16 matum in diplomatic language, and that the additional
17 phrase suggested would be unnecessary and superfluous.
18 He further stated that it was a matter in which he was
19 compelled to accede to the wishes of those in a better
20 position to pass upon such questions. I know from my
21 own personal knowledge that OKA worked faithfully and
22 expended considerable effort towards maintaining
23 peaceful relations with the United States.

24 "9. In the Greater East Asia Conference held
25 in November 1943, OKA Takazumi, SATO Kenryo, and many

1 others (including myself) were present as the attendants
2 of TOJO, Hideki, the representative of Japan. But the
3 Greater East Asia Ministry and the Foreign Office took
4 the leading part in preparing and running the conference,
5 and the attendants to the representative merely attended
6 the conference and took no active part."

7 The prosecution may cross-examine the witness.

8 ACTING PRESIDENT: Mr. Blakeney.

9 MR. BLAKENEY: I should like to ask one or two
10 questions on behalf of Mr. TOGO.

11 DIRECT EXAMINATION (Continued)

12 BY MR. BLAKENEY:

13 Q In paragraph 8 of your affidavit, Mr. Witness,
14 you state that Admiral OKA told you he had discussed
15 with a representative of the Foreign Ministry, the
16 question of the notification to be served upon the
17 United States. Did he tell you who that representative
18 was?

19 A No, he did not.

20 THE MONITOR: He did not specify that clearly.

21 Q What do you mean, clearly?

22 A He merely said a Foreign Office representative,
23 and did not specify who that representative was.

24 Q Did you know from any other source who that
25 representative was?

1 A No, I did not hear of it.

2 MR. BLAKENEY: That is all.

3 ACTING PRESIDENT: Captain Robinson.

4 CROSS-EXAMINATION

5 BY CAPTAIN ROBINSON:

6 Q Captain SHIBA, you state that you served in
7 Section Two of the Naval Affairs Bureau from 1940 to
8 1944 under the defendant Admiral OKA as Chief of the
9 bureau. Now, what were your duties in Section Two?

10 A Liaison with other government departments
11 with reference to matters pertaining to national defense.

12 Q And did you not also, under Article 9 of the
13 Imperial Ordinance of the Organization of the Navy
14 Ministry, exhibit 75 in this court, deal with matters
15 concerning international conventions and personnel
16 dispatched abroad?

17 A Yes, I was handling such matters.

18 Q And those matters concerning international
19 conventions included matters relating to prisoners of
20 war, did they not, under International Hague Treaty IV
21 of 1907?

22 A Yes, they were included.

23 Q What was your training and experience in
24 international law, Captain SHIBA?

25 A I attended lectures on international law when

I was a student at the Naval Staff College.

1 Q Those lectures were by Professor ENOMOTO, who
2 appeared as a witness in this Tribunal?

3 A Yes.

4 Q Now, in paragraph 6 at page 2 of your affidavit,
5 you say that you felt that the Japanese final note to
6 the United States was not adequate as an ultimatum,
7 is that not correct?

8 A Yes, as you say.

9 Q You suggested that the words be added that
10 Japan, and I quote your words, "reserved the right of
11 free action"; is that not correct?

12 A Yes.

13 Q And you say that you believed that the addi-
14 tion of those words would make the note clear as an
15 ultimatum?

16 A Yes.

17 Q Did you have in mind any former ultimatum by
18 the Japanese Government which had contained such words
19 or clauses?

20 A Yes, and also my recollections of the lectures
21 delivered by Professor ENOMOTO.

22 Q When and where had the former ultimatum to
23 which you refer been used?

24 A I think there was one presented to the Russian
25

I was a student at the Naval Staff College.

1 Q Those lectures were by Professor ENOMOTO, who
2 appeared as a witness in this Tribunal?

3 A Yes.

4 Q Now, in paragraph 6 at page 2 of your affidavit,
5 you say that you felt that the Japanese final note to
6 the United States was not adequate as an ultimatum,
7 is that not correct?

8 A Yes, as you say.

9 Q You suggested that the words be added that
10 Japan, and I quote your words, "reserved the right of
11 free action"; is that not correct?

12 A Yes.

13 Q And you say that you believed that the addi-
14 tion of those words would make the note clear as an
15 ultimatum?

16 A Yes.

17 Q Did you have in mind any former ultimatum by
18 the Japanese Government which had contained such words
19 or clauses?

20 A Yes, and also my recollections of the lectures
21 delivered by Professor ENOMOTO.

22 Q When and where had the former ultimatum to
23 which you refer been used?

24 A I think there was one presented to the Russian
25

Government at the time of the Russo-Japanese War.

1 Q And what about the one presented in 1914 to
2 the Imperial German Government?

3 The question is, did you have it in mind when
4 you were proposing what the ultimatum should contain
5 with regard to freedom of action?
6

7 A No, that was not in my mind.

8 Q In fact, you observed that the proposed Japanese
9 note to the United States concluded merely with the
10 words, quoting: "It is impossible to reach an agreement
11 through further negotiations"; and you thought by
12 adding your amendment, namely, "we reserve the right
13 of free action," you would thereby make the note con-
14 form to the requirements of the Third Hague Convention,
15 just as you considered former ultimatums of Japan
16 had done; is that correct?

17 A I thought that such expression -- it would
18 be well if such expression could be used in the language
19 of diplomacy.

20 Q Now, is it not true that the defendant OKA
21 and you knew that even if your words "freedom of action"
22 had been added, the note would still have fallen far
23 short of the requirement of the international conven-
24 tions which you were administering, and particularly
25 of Hague Convention III?

A May I have the question repeated?

1 MR. ROBERTS: I object on the ground that he is
2 asking this witness for legal opinion. I do not believe
3 he is qualified to give a legal opinion.
4

5 ACTING PRESIDENT: This witness has testified
6 he has handled international questions there in his
7 section of the bureau. If the question was changed to
8 what he thought instead of what he knew, it might be
9 admissible -- it would be.

10 MR. ROBERTS: He can answer as to the facts and
11 not the law involved.
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1 Q The question, then, Mr. Witness, would be
2 whether you and the defendant, Admiral OKA, did not
3 really believe, think, that if your words, "freedom
4 of action," had been added the note would still have
5 fallen short of the requirements of the Third Hague
6 Convention for such a note?

7 MR. ROBERTS: I still object on the ground
8 that he is assuming that there are certain facts in
9 evidence which have not been proved by the prosecu-
10 tion.

11 ACTING PRESIDENT: This matter was just
12 ruled on. Objection overruled.

13 Q Please answer the question, Witness, please.

14 A I thought that if such language as I suggested
15 was incorporated into the note that would be sufficient.

16 Q Did OKA tell you that Foreign Minister TOGO
17 had opposed the amendment?

18 A No, he did not say that Foreign Minister
19 TOGO -- he did not specify any names such as Foreign
20 Minister TOGO. He merely said that the Foreign
21 Office was of the opinion that that was not necessary.

22 THE INTERPRETER: Correction: I did not
23 hear that the Foreign Minister made any such state-
24 ment. I heard that the Foreign Office's explanation
25 was that such an amendment as suggested was not

necessary.

1 Q Did you hear that the representatives of the
2 navy would not permit the note to be made so clearly an
3 ultimatum because they said that such an ultimatum
4 would cause a failure of the surprise attack?

5 A I have absolutely not heard of that.

6 Q When OKA stated to you that he -- and I quote
7 your words -- "he (OKA) was compelled to accede to
8 the wishes" of others in rejecting that clear ulti-
9 matum, amendment, of yours, whom did he name as those
10 who compelled him to drop the proposed amendment?

11 A I have not heard of any names.

12 Q Did you or Admiral OKA protest to anyone in
13 regard to the omission of this amendment?

14 A With regard to Admiral OKA I do not know.
15 So far as I am concerned I did not do anything.

16 Q And so far as you know he did nothing either?

17 A May I have that repeated? I could not quite
18 get what you meant by "take measures."

19 MR. ROBERTS: I submit --

20 CAPTAIN ROBINSON: The question may be with-
21 drawn. It isn't necessary to take further time on it.
22 I want to ask you another, though.

23 Q Did I understand you to say, Mr. Witness,
24 that you made no protest to Admiral OKA or to
25

necessary.

1 Q Did you hear that the representatives of the
2 navy would not permit the note to be made so clearly an
3 ultimatum because they said that such an ultimatum
4 would cause a failure of the surprise attack?

5 A I have absolutely not heard of that.

6 Q When OKA stated to you that he -- and I quote
7 your words -- "he (OKA) was compelled to accede to
8 the wishes" of others in rejecting that clear ul-
9 timatum, amendment, of yours, whom did he name as those
10 who compelled him to drop the proposed amendment?
11

12 A I have not heard of any names.

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14 regard to the omission of this amendment?

15 A With regard to Admiral OKA I do not know.
16 So far as I am concerned I did not do anything.

17 Q And so far as you know he did nothing either?

18 A May I have that repeated? I could not quite
19 get what you meant by "take measures."

20 MR. ROBERTS: I submit --

21 CAPTAIN ROBINSON: The question may be with-
22 drawn. It isn't necessary to take further time on it.
23 I want to ask you another, though.

24 Q Did I understand you to say, Mr. Witness,
25 that you made no protest to Admiral OKA or to

1 anyone else with regard to dropping your proposed
2 amendment from the note that was to go to the United
3 States?

4 A Yes.

5 Q Therefore, you gave up without protest your
6 belief that the note in the form in which it later
7 actually was sent to the United States was not an
8 ultimatum, not in accordance with yours and Admiral
9 OKA's belief that Japan must fight fairly and above-
10 board? Is not that the result of the statement that
11 you presented in your affidavit?

12 MR. ROBERTS: I object on the ground that
13 this is apparently a statement -- not a question.
14 If it is a question it has already been answered
15 by the witness.

16 ACTING PRESIDENT: Objection sustained.

17 Q Just one further question. You stated a
18 moment ago, Mr. Witness, that you did not have in
19 mind the German ultimatum of 1914, that is, the
20 Japanese ultimatum to Germany in 1914, when you
21 proposed this amendment. I have just one question
22 on that point.

23
24 Was your failure to take into consideration
25 the ultimatum of Japan to Germany of August 1914 due to
your lack of confidence about that ultimatum or due

1 to the fact that you knew about it but thought that
2 it would not apply?

3 MR. ROBERTS: I object on the ground it is
4 immaterial and irrelevant.

5 ACTING PRESIDENT: Objection overruled.

6 Q Your answer, please?

7 A No, it just did not occur to me. That is all.

8 CAPTAIN ROBINSON: That is all.

9 ACTING PRESIDENT: Will there be any re-
10 direct examination?

11 I have one question by a Member of the
12 Tribunal.

13 What were your duties in regard to prisoners
14 of war? I mean your duties, Witness.

15 THE WITNESS: I had no specific duties.

16 MR. BRANNON: I have two questions I would
17 like to ask the witness.

18 ACTING PRESIDENT: You can ask them in the
19 morning.

20 We will adjourn until half-past nine tomorrow
21 morning.

22
23 (Whereupon, at 1600, an adjournment
24 was taken until Tuesday, 18 November, 1947,
25 at 0930.)